

Minutes of the October 6, 2000 meeting
City Council Chambers
25541 Barton Road
Loma Linda

1. Chair Withers called the meeting to order at 9:05 a.m.

Board Members Present

Board Members Absent

John Withers, Chair
Melody Henriques, Vice-Chair
Rodger Siems
Carole Beswick
Jose Solorio
Irv Pickler
Seymour Van Gundy

Staff Members Present

Gerard J. Thibeault, Executive Officer
Kurt V. Berchtold, Assistant Executive Officer
Joanne E. Schneider, Environmental Program Manager
Barbara Laffoon, Secretary
Hope A. Smythe, Chief, Basin Planning Inland Waters
Wanda K. Smith, Chief, Basin Planning Coastal Waters
Gary D. Stewart, Chief, Regulations
Mark G. Adelson, Chief, Surveillance & Enforcement
Ken J. Theisen, Sanitary Engineering Associate
Lance S. Lin, Water Resources Control Engineer
Cindy Li, Engineering Geologist
William M. Norton, Sanitary Engineering Associate
Nam K. Nguyen, Student

State Board Representative

Mary Jane Forster

Legal Counsel

Ted Cobb

Public Attendance

John Zasadzinski, Norco Ranch
Robert Lindblad, National Heritage Foundation
Brian Cahill, California Dept. Food and Agriculture
Don Harriger, Western Municipal Water District
Joan Oppenheimer, Montgomery Watson
Sergio Magdil, Republic of Moldova
Paul Mobley, United Strategies, Inc.
Ken Dills, City of Huntington Beach
Sharon Bolton, Riverside County Farm Bureau
Julius Ma, Elsinore Valley Municipal Water District
Darin Busby, PBS&J, San Diego

Lane Waldner, County of Orange
Mark Norton, SAWPA
Gerald Johnson, City of Norco
Bob Caustin, Defend the Bay
Greg Woodside, Orange Co. Water District
William F. Roth, City of Colton
Steve Fuller, EPA
George Muse, Metropolitan Water District of So. Calif.
Jim Colston, Orange County Sanitation District
Tom Crowley, San Bernardino Valley Water Conservation District
Gabriel Bostan, G. B. Engineering
Rodica Bostan, G. B. Engineering
Kris Flaig, City of Los Angeles
Janice E. Smith, Dow Agrosiences
Jack Nelson, Yucaipa Valley Water District
John Johnson, County of Riverside
Pat Kilroy, City of Lake Elsinore

2. Public Forum

Bob Caustin, Defend the Bay, spoke regarding his participation in a State Board-appointed public advisory group comprised of equal members from both regulated and environmental communities. Mr. Caustin felt that the advisory group was making excellent headway in advising the State on Total Maximum Daily Loads (TMDL) monitoring and implementation issues. He expressed a desire to see something such as this type of advisory group occur with the Santa Ana Regional Board, particularly with the committee being formed to review work on San Diego Creek nutrient objectives. Joanne Schneider explained the nature of this committee and staff's efforts to invite participation.

3. Approval of Minutes of, 2000 meeting

There being no additions or corrections, the minutes of the regular board meeting held on August 25, 2000 and the minutes of the special board meeting held on September 15, 2000, were approved as presented.

4. Approval of Consent Calendar Items

Executive Officer Thibeault requested that the following items be removed from the consent calendar:

(5) Amendment of Waste Discharge Requirements for Western Riverside County Regional Wastewater Agency, Order No. 00-77, to permit public comments;

(7) Revised Waste Discharge Requirements and Reclamation Requirements for Western Municipal Water District, March Air Reserve Base, Order No. 00-35 - postponed;

(10) Revised Waste Discharge Requirements for Synagro Composting Company of California, Order No. 00-80 - postponed;

Action: It was moved by Board Member Henriques, seconded by Board Member Van Gundy, and unanimously carried to adopt Order No. 00-75 for Pine Springs Ranch, Order No. 00-8 for City of San Bernardino, Order No. 00-9 for City of Colton, and Resolution No. 00-84 Requesting Funds from Cleanup and Abatement Account as presented.

12. Cease and Desist Order, Compliance with Bear Valley Waste Discharge Prohibition, Order No. 00-83

Information pertaining to this item is contained in a verbatim transcript.

Chair Withers administered the Oath to all participating persons. Surveillance and Enforcement Section Chief Mark Adelson presented the staff report regarding the Cease and Desist Order.

Robert Lindblad of the National Heritage Foundation spoke of behalf of the homeowners involved. Three of the homeowners, Neal McNeal, Marilyn Hubbard, and John Justis, spoke regarding the difficulties they had encountered and the areas in which they disagreed with Board staff. The homeowners felt the test results they had obtained showed no indication of pollutants in their wells and voiced objections at being required to hook up to the sewer system of Big Bear City Community Services District (BBCCSD).

It was suggested that the Cease and Desist Order be amended to give the homeowners the latitude to pursue and select appropriate compliance alternatives and to give the Executive Officer wider authority to grant time extensions.

Action: It was moved by Board Member Pickler, seconded by Board Member Solorio, and unanimously carried to adopt Cease and Desist Order No. 00-83 as amended.

Chair Withers requested a roll call. All Board Members responded aye.

A break was observed at 11:16. The Board resumed the meeting at 11:25 a.m.

13. Administrative Civil Liabilities Complaint, Eastern Municipal Water District

Executive Officer Thibeault noted that the discharger had waived the right to a hearing and paid the civil liability assessment. Therefore, no action is required by the Board.

14. Mandatory Penalties Complaint, Yucaipa Valley Water District

This item was postponed at the request of the discharger.

15. Mandatory Penalties Complaint, City of Rialto

Executive Officer Thibeault noted that the discharger had waived the right to a hearing and paid the mandatory penalties assessment. Therefore, no action is required by the Board.

16. Basin Plan Amendment Objectives Workshop

Mark Norton, Santa Ana Watershed Project Authority (SAWPA), introduced Andy Malone of Wildermuth Environmental Associates, who gave a detailed presentation on the study performed by his firm at the request of the Nitrogen/TDS Task Force.

17. Public Workshop - Newport Bay/San Diego Creek Toxics Total Maximum Daily Load (TMDL) Draft Problem Statement

Ken Theisen, of the Coastal Waters Planning Unit, presented a summary of the Draft Problem Statement for the Total Maximum Daily Load for Toxic Substances in Newport Bay and San Diego Creek.

Pursuant to the requirements of Section 303(d) of the Clean Water Act (CWA), in the late 1980's and early 1990's, the Board listed Newport Bay and San Diego Creek as impaired due, in part, to

violations or threatened violations of the Basin Plan narrative objectives for toxic substances. In placing Newport Bay and San Diego Creek on the Section 303(d) list, the Board did not specifically identify those toxic substances to be addressed by a TMDL.

The Basin Plan specifies two narrative water quality objectives for toxic substances. These are that (1) toxic substances shall not be discharged at levels that will bioaccumulate in aquatic resources to levels which are harmful to human health, and (2) the concentration of toxic substances in the water column, sediment or biota shall not adversely affect beneficial uses. Evidence of acute and chronic toxicity to aquatic organisms as the result of toxic substances in the water column and sediment indicates that the second objective is being violated in San Diego Creek and Upper and Lower Newport Bay. The bioaccumulation data provided by the State Mussel Watch and Toxic Substances Monitoring programs remains insufficient to judge whether a public threat is posed by the consumption of fish or shellfish collected from the Bay or San Diego Creek. However, the evidence does indicate that some toxic substances are bioaccumulating in fish and mussel tissue at levels that, if confirmed by statistically significant tissue monitoring, would pose a threat to human consumers. Thus, there is evidence that the first objective is being, or is threatened to be, violated. Further, the bioaccumulation data provided by the TSM program indicate that the concentrations of certain toxic substances in fish in San Diego Creek may adversely affect the biota, which would constitute violations of the second objective.

The U.S. EPA recently promulgated numeric water quality objectives for 126 toxic substances for California's inland surface and bay and estuarine waters. (California Toxics Rule, May 18, 2000) The CTR criteria automatically become a part of the Basin Plan water quality objectives. Water column monitoring data indicate violations of the CTR chronic criterion for selenium in San Diego Creek.

The draft staff report summarizes the data reviewed to evaluate violations and threatened violations of the Basin Plan narrative and numeric water quality objectives for toxic substances in Newport Bay and its tributaries and the results of that assessment. In summary, five categories of toxic substance related problems have been identified for San Diego Creek and Newport Bay:

1. Evidence of water column acute and chronic toxicity to aquatic life in San Diego Creek and Newport Bay, indicating a condition of violation of the second Basin Plan narrative objective for toxic substances. There is some evidence of water column toxicity due to chlorpyrifos in Upper Newport Bay, as well as toxicity due to unknown causes. Diazinon does not appear to be causing toxicity in Newport Bay.
2. Evidence of acute and chronic toxicity to aquatic life in the sediment, and the porewater of the sediment, in Upper and Lower Newport Bay, indicating a violation of the second Basin Plan narrative objective for toxic substances. The toxicity to aquatic life in the sediment may cause or contribute to the toxicity measured in the water column and the degradation of benthic organisms observed in some areas of the Bay, and therefore indicate violations of the second narrative objective for toxic substances.
3. Evidence of bioaccumulation of certain heavy metals, PCBs, tributyltin and DDT in mussel tissue in the Rhine Channel area, at the west end of Lower Newport Bay. (The Regional Board has already identified the Rhine Channel as a Toxic Hot Spot for priority action.)
4. Evidence of continued, but declining, bioaccumulation of chemicals no longer in use, including DDT, chlordane, dieldrin, and PCBs, in mussel and clam tissue from samples collected throughout the Bay and lower San Diego Creek.
5. Questions about evidence for toxic substances found in various monitoring programs to be exceeding USEPA or other recommended water, sediment, and tissue concentration quality criteria.

The draft problem statement, and the toxic substance water quality problems identified in the report, serve to refine the Section 303(d) list for Newport Bay and San Diego Creek and will be used as the basis for the completion of the TMDLs for toxic substances in these two water bodies.

Staff notified the Board that we have received comments on the Draft Problem Statement and would be responding to the comments and bringing the final problem statement back to the Board on November 17, 2000 for another public workshop. At that time the Board will be asked to provide direction to staff regarding a proposed workplan for development of toxics substance TMDLs, based on the refined problem statement.

John Kabashima, Environmental Horticulture Advisor, University of California Cooperative Extension gave the Board a presentation summarizing his and his staff's involvement in the development of nutrient and pesticide management plans for the nurseries and agricultural growers in the Newport Bay Watershed. Mr. Kabashima discussed the nutrient and pesticide management plans he has developed, and is developing, to comply with the requirements of the TMDLs for Newport Bay and San Diego Creek. He discussed the proactive approach he and the nurseries in the watershed have been taking to reduce pesticide discharges to San Diego Creek and Newport Bay, before the Board has been asked to adopt the TMDL for toxic substances. This voluntary effort has resulted in a 50% reduction in the amount of pesticides discharged by the nurseries.

18. Lake Elsinore Total Maximum Daily Load (TMDL) Nutrient Problem Statement

This item was postponed to the special Board meeting of November 16, 2000.

19. Newport Bay Sediment Total Maximum Daily Load (TMDL) Status Report

In the interest of time, Joanne Schneider, Environmental Program Manager, briefly reviewed the requirements for topographic and vegetation surveys of Upper Newport Bay that are specified in the sediment TMDL and Monitoring and Reporting Program (M&RP) No. 99-74. She indicated that pursuant to the M&RP, the surveys should have been completed by June 30, 2000, but that the surveys were not completed by that date. She advised the Board that staff of the Orange County Public Facilities and Resources Department (OCPF&RD), acting on behalf of the responsible parties in the watershed, had requested that the surveys be delayed so that the most up-to-date information would be available for the design of the U.S. Army Corps of Engineers dredging/restoration project in the Bay. Design of that project is expected to begin in 2001. Ms. Schneider advised the Board that staff believed that the requested delay was reasonable and cost-effective, provided that the surveys are completed no later than June 30, 2001. She indicated that OCPF&RD staff has provided assurance that the surveys would be completed by that date.

Bob Caustin, Defend the Bay, argued that the surveys should be completed, as required, without further delay. He indicated that the surveys should have been completed after the 1997-98 storm season, in which sufficient sediment transport occurred to trigger the implementation of the surveys, pursuant to the TMDL requirements. Ms. Schneider responded that it could be debated whether the surveys were required as the result of the 1997-98 sediment deposition because of the timing of full approval of the TMDL and the date the TMDL took effect. Nevertheless, Ms. Schneider agreed that the surveys were required to be completed by June 30, 2000. She discussed the merits of allowing a delay to June 30, 2001. Board Member Solorio expressed concerns about a delay, including the impacts on staff resources due to needed follow-up.

Action: It was moved by Board Member Pickler, seconded by Board Member Henriques, and carried to affirm the action recommended by staff. The vote was five ayes and one opposing.

20. Presentation by Orange County CoastKeeper

This item was postponed at the request of Orange County CoastKeeper.

21. Hazardous Waste and Sewage Spill Incident Report

Staff provided the Board with a list of incidents occurring since those reported at the June 30 Board meeting.

22. Appointment of a Committee to Nominate Regional Board Officers for 2001

Chair Withers appointed Members Beswick and Van Gundy to serve as a Committee to Nominate Regional Board Officers for 2001.

23. Board Meeting Dates and Locations 2001

Proposed Board Meeting dates and locations for 2001 were presented and will be considered at the November 17, 2000 meeting.

24. Quarterly Violations Report

A list of violations was provided to the Board as required by the State Water Resource Control Board's Water Quality Enforcement Policy.

25. Executive Officer's Report

The Board accepted the report as submitted.

26. Regional Board Member Communication

There was none.

27. Closed Session

There was none.

28. Adjournment

Chair Withers adjourned the meeting to the special Board Meeting of November 16, 2000 at Irvine Ranch Water District and the regular Board Meeting of November 17, 2000 at City of Huntington Beach.

The meeting was adjourned at 2:10 p.m.

Respectfully submitted:

GERARD J. THIBEAULT
Executive Officer

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